

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 258**

FINAL READING

Introduced by Harms, 48; McCoy, 39; Flood, 19.

Read first time January 14, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend  
2 section 53-180.05, Reissue Revised Statutes of Nebraska,  
3 and section 53-101, Revised Statutes Supplement, 2009; to  
4 change and provide penalties for minors in possession of  
5 alcoholic liquor; to harmonize provisions; and to repeal  
6 the original sections.

7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 53-101, Revised Statutes Supplement,  
2 2009, is amended to read:

3           53-101 Sections 53-101 to 53-1,122 and section 3 of this  
4 act shall be known and may be cited as the Nebraska Liquor Control  
5 Act.

6           Sec. 2. Section 53-180.05, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           53-180.05 (1) Any person violating section 53-180 shall  
9 be guilty of a Class I misdemeanor. Any person violating any of the  
10 provisions of ~~sections 53-180.01 to~~ section 53-180.01 or 53-180.03  
11 shall be guilty of a Class III misdemeanor. Any person older  
12 than eighteen years of age and under the age of twenty-one years  
13 violating section 53-180.02 is guilty of a Class III misdemeanor.  
14 Any person eighteen years of age or younger violating section  
15 53-180.02 is guilty of a misdemeanor as provided in section 3 of  
16 this act and shall be punished as provided in such section.

17           (2) Any person who knowingly manufactures, creates, or  
18 alters any form of identification for the purpose of sale or  
19 delivery of such form of identification to a person under the age  
20 of twenty-one years shall be guilty of a Class I misdemeanor. For  
21 purposes of this subsection, form of identification means any card,  
22 paper, or legal document that may be used to establish the age of  
23 the person named thereon for the purpose of purchasing alcoholic  
24 liquor.

25           (3) When a minor is arrested for a violation of sections

1 53-180 to 53-180.02 or subsection (2) of this section, the law  
2 enforcement agency employing the arresting peace officer shall make  
3 a reasonable attempt to notify such minor's parent or guardian of  
4 the arrest.

5           Sec. 3. The penalty for violation of section 53-180.02 by  
6 a person eighteen years of age or younger shall be as follows:

7           (1) If the person convicted or adjudicated of violating  
8 such section has one or more licenses or permits issued under the  
9 Motor Vehicle Operator's License Act:

10           (a) For the first offense, such person is guilty of a  
11 Class III misdemeanor and the court may, as a part of the judgment  
12 of conviction or adjudication, impound any such licenses or permits  
13 for thirty days and require such person to attend an alcohol  
14 education class;

15           (b) For a second offense, such person is guilty of a  
16 Class III misdemeanor and the court, as a part of the judgment of  
17 conviction or adjudication, may (i) impound any such licenses or  
18 permits for ninety days and (ii) require such person to complete no  
19 fewer than twenty and no more than forty hours of community service  
20 and to attend an alcohol education class; and

21           (c) For a third or subsequent offense, such person is  
22 guilty of a Class III misdemeanor and the court, as a part of  
23 the judgment of conviction or adjudication, may (i) impound any  
24 such licenses or permits for twelve months and (ii) require such  
25 person to complete no fewer than sixty hours of community service,

1 to attend an alcohol education class, and to submit to an alcohol  
2 assessment by a licensed alcohol and drug counselor; and

3 (2) If the person convicted or adjudicated of violating  
4 such section does not have a permit or license issued under the  
5 Motor Vehicle Operator's License Act:

6 (a) For the first offense, such person is guilty of  
7 a Class III misdemeanor and the court, as part of the judgment  
8 of conviction or adjudication, may (i) prohibit such person from  
9 obtaining any permit or any license pursuant to the act for which  
10 such person would otherwise be eligible until thirty days after  
11 the date of such order and (ii) require such person to attend an  
12 alcohol education class;

13 (b) For a second offense, such person is guilty of a  
14 Class III misdemeanor and the court, as part of the judgment  
15 of conviction or adjudication, may (i) prohibit such person from  
16 obtaining any permit or any license pursuant to the act for which  
17 such person would otherwise be eligible until ninety days after  
18 the date of such order and (ii) require such person to complete no  
19 fewer than twenty hours and no more than forty hours of community  
20 service and to attend an alcohol education class; and

21 (c) For a third or subsequent offense, such person is  
22 guilty of a Class III misdemeanor and the court, as part of  
23 the judgment of conviction or adjudication, may (i) prohibit such  
24 person from obtaining any permit or any license pursuant to the  
25 act for which such person would otherwise be eligible until twelve

1 months after the date of such order and (ii) require such person to  
2 complete no fewer than sixty hours of community service, to attend  
3 an alcohol education class, and to submit to an alcohol assessment  
4 by a licensed alcohol and drug counselor.

5 A copy of an abstract of the court's conviction or  
6 adjudication shall be transmitted to the Director of Motor Vehicles  
7 pursuant to sections 60-497.01 to 60-497.04.

8 Sec. 4. Original section 53-180.05, Reissue Revised  
9 Statutes of Nebraska, and section 53-101, Revised Statutes  
10 Supplement, 2009, are repealed.